

EXHIBIT 40

HAYWARD AREA RECREATION AND PARK DISTRICT

ORDINANCE NO. 001-02, AS AMENDED
on November 28, 2005, March 23, 2009, July 27, 2015 and October 21, 2019

**REGULATIONS GOVERNING USE OF
PARKS, RECREATION AREAS, AND
FACILITIES**

WHEREAS, the Hayward Area Recreation and Park District (District) was created to provide services to the greatest number of people commensurate with the resources of the District; and

WHEREAS, the District's recreation and park programs and facilities have been established for the benefit of the people, who should have access to the programs and facilities without legally prohibited discrimination; and

WHEREAS, these Regulations are adopted pursuant to the authority provided by California Public Resources Code Section 5786.1 and other applicable provisions of law in order to provide for the administration, operation, use and maintenance of the District's facilities, programs and services,

WHEREAS, violation of the Regulations is punishable as either a misdemeanor or infraction as provided by Public Resources Code Section 5786.17 and the fine for any such violations shall be as established under these Regulations as allowed under the Penal Code and Government Code.

NOW, THEREFORE the Board of Directors of the Hayward Area Recreation and Park District ordains as follows:

REGULATIONS

SECTION 1. REPEAL OF PRIOR ORDINANCES.

Hayward Area Recreation and Park District Ordinance No. 001-70, adopted June 8, 1970 and amended June 11, 1973, September 26, 1977, August 15, 1981, June 12, 1989 and September 24, 2001 is repealed as of the effective date of this ordinance.

SECTION 2. EFFECTIVE DATE.

This amended Ordinance No. 001-02 shall take effect thirty (30) days after the date of its final passage. Until that time, Ordinance No. 001-02 as it existed before the effective date of this amendment shall remain in full effect.

SECTION 3. APPLICABILITY AND DEFINITIONS.

(a) Applicability. The Regulations stated herein apply to District Property and all persons, defined herein as natural persons, business, government, social and/or non-profit entities of all types, and/or any combination thereof, and the officers, employees, agents, contractors, and volunteers thereof entering District Property. Notwithstanding the foregoing, these Regulations shall not apply to law enforcement officers, nor to the officers, employees or volunteers of the District while acting in the scope of their official duties.

(b) Definitions. As used herein, the following terms shall be defined as follows:

- (1) "District" means the Hayward Area Recreation and Park District or HARD.
- (2) "District Facility" means any park, recreation area, picnic area, camp site, golf course, driving range, facility, building, structure or parking lot owned, controlled or operated by the District and open to use by persons or groups.
- (3) "District Property" means any District Facility, open space, trail, body of water, or other undeveloped areas owned, controlled or operated by the District.
- (4) "Regulations" means these Regulations Governing Use of Parks, Recreation Areas, and Facilities, as they may be amended from time to time.

SECTION 4. ABIDING BY REGULATIONS AND LAWS.

(a) Persons entering District Property may remain as long as they abide by District rules and regulations, federal, state and local laws and regulations, all posted rules, terms and conditions of a Rental Contract and lawful instructions of law enforcement officers and District employees. Individuals who do not abide by lawfully given instructions of law enforcement officers, District employees, posted rules, and/or Federal, State and local laws or regulations are in violation of these Regulations and are subject to citation.

(b) Individuals who fail to leave District Property when requested to do so by a law enforcement officer or District employee shall be in violation of these Regulations and are subject to citation.

(c) Individuals who violate these Regulations and fail to provide identification or identifying information or who provide false information when detained by Park Rangers or local law enforcement officers are in violation of these Regulations and are subject to citation.

SECTION 5. AUTHORIZED ENFORCEMENT.

District Park Rangers, while patrolling District Property, have the full authority of peace officers under California Penal Code Section 830.31(b) and have the primary responsibility to enforce these Regulations and other District rules as assisted by local law enforcement officers.

SECTION 6. PENALTY FOR VIOLATIONS.

Violation of these Regulations is deemed a misdemeanor under Public Resources Code Section 5786.17(a), punishable pursuant to Penal Code Section 19. Any citation issued for violation of these Regulations may be prosecuted as a misdemeanor or infraction punishable by a fine under Penal Code Sections 19 or 19.8, respectively, and as set forth in the District's fine schedule. Park Rangers and local law enforcement officers are authorized to issue citations for violations of these Regulations.

SECTION 7. PARK HOURS AND TRESPASSING.

(a) District Property is open from local sunrise to local sunset; except (i) courts and fields when lighted, up to 10:00 p.m. and when used for District-approved purposes, (ii) District permitted or sponsored events at District facilities, or (iii) hours of operation are otherwise posted. It is a trespass violation to enter on or remain in any District Property later than local sunset or prior to local sunrise without prior written consent, except as provided herein.